

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 4122 of 1996

with

FA Nos.4123/96, 4128/96, 4130/96 to 4144/96, 4146/96 to 4158/96, 4160/96 to 4162/96, 4166/96 to 4169, 4171/96 to 4176/96, 4178/96 to 4195/96, 4197/96 to 4204/96, 4206/96 to 4209/96, 4212/96 to 4221/96, 4223/96, 4225/96, 4228/96 to 4230/96, 4233/96 to 4239/96, 4242/96 to 4247/96, 4249/96, 4250/96, 4253/96, 4254/96, 4257/96 to 4260/96, 4262/96, 4263/96, 4265/96 to 4276/96, 4278/96, 4280/96 to 4286/96.

For Approval and Signature:

Hon'ble MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

RABARI MALA MADHA

Appearance:

MR PG DESAI, GP for Appellants in F.A. No. 4122 of 1996
with FA Nos.4123/96, 4128/96, 4130/96 to 4144/96, 4146/96 to 4158/96, 4160/96 to 4162/96, 4166/96 to 4169, 4171/96 to 4176/96, 4178/96 to 4195/96, 4197/96 to 4204/96,

MR LR POOJARI, AGP for Appellants in F.A. No. 4206/96
to 4209/96, 4212/96 to 4221/96, 4223/96, 4225/96, 4228/96
to 4230/96, 4233/96 to 4239/96, 4242/96 to 4247/96,

4249/96, 4250/96, 4253/96, 4254/96, 4257/96 to 4260/96,
4262/96, 4263/96, 4265/96 to 4276/96, 4278/96, 4280/96 to
4286/96.

MR MS DESAI, for Respondents- claimants.

CORAM : MR.JUSTICE Y.B.BHATT and

MR.JUSTICE C.K.BUCH

Date of decision: 13/04/98

ORAL COMMON JUDGEMENT (Per: Y.B.BHATT, J)

These are the appeals filed on behalf of the State of Gujarat under Sec.54 of the Land Acq. Act read with Sec.96 of C.P.Code, challenging the common judgment and awards passed by the Reference Court under Sec.18 of the said Act.

2. We do not propose to enter into a detailed discussion either on the merits of the evidence and/or the appreciation of the evidence on the part of the Reference Court in view of the following circumstances.

3. It is a common ground of both the sides that the lands were acquired for Dharoi Project and are situated in village Gantodi, Ta: Danta, District : Banaskantha. Similarly, lands were acquired from other villages for the same project and this Court, as also this Bench, has in a number of decisions dealt with and decided the market value in respect of such acquisition. Such decisions as have been rendered by this Bench, have also proceeded on an admitted footing that the acquired lands are within a radius of 10 to 15 kms. and that they bear a common standard of fertility and that there are no distinguishing features which would justify any exception being made in respect of any particular land or any particular acquisition.

4. Coming to the merits of the present matters, we find that the relevant notification under Sec.4 was first issued on 12.8.1971, amended thereafter on 7.6.1973 and lastly amended on 16.8.1973.

4.1 Bearing in mind the dates and looking to the various decisions rendered by this Court as also by this Bench, we find that the nearest decision with reference to the date of Sec.4 notification is a decision rendered by this Bench in First appeal Nos. 4721/96 to 4737/96 decided on 2.4.1998, wherein we have decided the market

value of the acquired land at the rate of Rs. 258/ per Are in respect of Bagayat land. The date of Sec.4 notification considered in the said decision was 23.5.1973.

5. When the said decision was discussed with the ld. counsel for the respective parties, both the counsel agreed that the said decision would be fairly applicable to the facts and circumstances of the present case. Under the circumstances, we have specifically inquired of the ld. counsel for the respondents- original claimants as to whether he has anything to submit as to the applicability of the said decision to the facts of the case, and as to why land in the instant case should not be valued at Rs. 258/ per Are (for irrigated land). In the context of this specific query, the ld. counsel for the respondents -original claimants also agreed that this would be a fair fixation. We may clarify here that the Reference Court has awarded a uniform rate both for irrigated and non-irrigated land. In order to ascertain whether there is any justification for awarding a uniform rate to two different categories of land, it was pointed out to us from the deposition of the Land Acq. Officer himself (Shri Vinubhai Maganlal Thakkar, Exh.82), that all the lands were irrigated lands. Thus, we eliminate the so-called distinction between the irrigated land and non-irrigated land and determine the market value of the acquired land at a uniform rate of Rs.258/ per Are.

6. On the specific query being put to the ld. counsel for the appellants, he states that no other points are raised or pressed in the present appeal.

7. Accordingly, these appeals are partly allowed with no orders as to costs. Decree accordingly. Interim stay against the disbursement, if any, stands vacated.

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